



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 2, 2023

FROM: DIRECTOR GINO BETTS JR.  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0141

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	13.031 - Vehicle Eluding/Pursuits 13.031-POL 4. Officers Will Not Engage in a Vehicle Pursuit Without Probable Cause to Believe a Person in the Vehicle Has Committed [...]	Sustained
# 2	13.031 - Vehicle Eluding/Pursuits 13.031-POL 5. Officers Will Cease Pursuit When the Risk of Pursuit Driving Outweighs the Need to Stop the Eluding Driver	Allegation Removed

**Imposed Discipline**

Written Reprimand

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### EXECUTIVE SUMMARY:

It was alleged Named Employee #1 (NE#1) engaged in a vehicle pursuit without probable cause for all the factors required under policy. It was also alleged NE#1 failed to terminate the pursuit once the risk of the pursuit outweighed the need to stop the suspect.

### SUMMARY OF INVESTIGATION:

The Complainant, an SPD supervisor, submitted a complaint via Blue Team to OPA. The Complainant alleged that NE#1 engaged in a vehicle pursuit in violation of SPD’s pursuit policy. The Complainant also alleged that the vehicle pursued by NE#1 was involved in a five-vehicle accident shortly after NE#1 disengaged. OPA opened this investigation.

During its investigation, OPA reviewed the Blue Team Complaint, Computer-Aided Dispatch (CAD)/Mobile Data Terminal (MDT) Call Report, Incident Report, 911 Call Audio, Body Worn Video (BWV) Records, In-Car Video (ICV) Records, and Photographic Evidence. OPA also interviewed NE#1.

OPA conducted a comprehensive review of BWV and ICV related to this incident. None captured the vehicle pursuit. As explained below, on the date of incident, NE#1 was not equipped with a BWV, and NE#1’s vehicle was not equipped with ICV. However, OPA is able to reach findings in this case based on NE#1’s Incident Report and statement to OPA. These were consistent both with each other as well as with objective evidence recorded by CAD/MDT and contemporaneous radio traffic.



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*A. Incident Report*

NE#1 documented the vehicle pursuit in detail in his Incident Report narrative. NE#1 wrote, on the date of incident, he was assigned to a federal task force along with his partner, a federal agent. NE#1 wrote that he and his partner were wearing plain clothes with exterior vests with police markings. NE#1 wrote that he was driving an unmarked vehicle equipped with police lights, sirens, and a SPD radio. NE#1 documented that he and his partner were specifically assigned to investigate bank robberies.

NE#1 wrote that he received a “tracker alert” at about 10:18 AM, which informed him that a bank robbery was in progress. NE#1 wrote that the trackers provide real-time GPD locations of money stolen from banks. NE#1 wrote that, around the same time, SPD 911 received a 911 call for a bank robbery. NE#1 noted that the tracker showed that it was moving at about forty miles-per-hour before becoming stationary about two-and-a-half miles from the location of the bank robbery.

NE#1 wrote that he and his partner departed the FBI building in downtown Seattle at about 10:29 AM and responded with their vehicles lights and sirens activated. NE#1 wrote that, while en route, he received a radio update that the tracker signal had ceased, which indicated to him that the robbery suspect had located and disabled the tracker. NE#1 wrote that, about five minutes later, he heard radio broadcasts that police were surrounding the location of the tracker’s final signal. NE#1 wrote that he believed, based on training and experience, that the suspect likely left the area where the tracker was disabled.

NE#1 wrote, at about 10:41 AM, he and his partner were about 1.1 miles from the location of the tracker’s final signal. NE#1 described that, there, he observed a “tan Toyota Corolla” about fifty feet in front of his vehicle, travelling in the same direction. NE#1 wrote he was unaware if the driver of the Corolla was aware of his presence as his emergency lights can be difficult to see, even when activated, because his windshield was heavily tinted. NE#1 wrote that he observed the Corolla enter the oncoming traffic lane without signaling, passing a single vehicle before returning to the correct lane of travel. NE#1 wrote the vehicle the Corolla passed then yielded to his emergency lights.

NE#1 stated that the Corolla again entered the oncoming traffic lane and passed about six to eight vehicle that were waiting at a light. NE#1 wrote that the Corolla then turned without signaling. NE#1 described, at this time, he decided to follow the Corolla but did not know “if the Toyota was related to the bank robbery or if I was observing an unrelated crime.” NE#1 wrote he broadcast the situation over the radio, asked for any description of a vehicle involved in the bank robbery, and followed the Corolla with about two blocks between the vehicles. NE#1 wrote that he was informed by radio that there was no description of any involved vehicles.

NE#1 wrote he continued to follow the Corolla from a two block distance as it continued to weave in and out of traffic at a high rate of speed. NE#1 also wrote that the Corolla continued to enter the oncoming lane of traffic. NE#1 wrote that the Corolla’s rear license plate then fell off. NE#1 opined that, in his experience, bank robbery suspects commonly drive stolen vehicles or vehicles with incorrect plates as a diversion. NE#1 also opined that the rear plate of this vehicle falling off suggested that it had been placed on “unprofessionally.”



NE#1 described the Corolla continuing to drive erratically and that, at one point, NE#1's vehicle was about one block behind the Corolla with no other vehicles on the roadway. NE#1 wrote, at that moment, the Corolla made a sudden turn without signaling that suggested to NE#1 that the Corolla was attempting to elude him. NE#1 documented that he decided to pursue the Corolla at that point based on (1) the erratic driving being "consistent with flight from a recent crime, such as a bank robbery," (2) loss of license plate suggesting that the vehicle was stolen which was "consistent with preparation for flight from a recent crime," (3) location of first observing the Corolla, distance from the last tracker signal, and time delay of last tracker signal were "consistent with the suspect vehicle reaching this location," (4) the vehicle's attempt to elude him; and (5) NE#1's "extensive experience with the behavior of bank robbery suspects." NE#1 elaborated that "bank robbery suspects are usually armed" and that he felt it necessary to stop the Corolla for public safety. NE#1 noted that he learned later of an earlier radio broadcast that the bank robbery suspect was not seen with a weapon.

NE#1 wrote that he advised over radio the reason for his pursuit, location, and direction of travel. NE#1 wrote that the weather and residential nature of the neighborhood made it unsafe for him to continue pursuing the Corolla. NE#1 wrote that he requested a marked vehicle. NE#1 also wrote that he lost sight of the Corolla. NE#1 wrote that, at that time, he felt continued pursuit of the Corolla was an unnecessary risk. NE#1 concluded that he turned off his emergency equipment, advised radio that he was ending his pursuit, and responded to the location of the tracker's last signal.

*B. OPA Statement – Named Employee #1*

NE#1 was interviewed by OPA. His OPA interview was consistent with his Incident Report.

However, when asked about the policies under investigation in this case, NE#1 replied candidly: "At the time I thought I was within policy. And my understanding of the policy um is I was not in policy at the time, I had reasonable suspicion and a substantial amount of reasonable suspicion. Um...but based on the policy, I did not have probable cause at the time." NE#1 elaborated that he was confused by the way the "laws had been changing. I thought that we were at reasonable suspicion again, I was incorrect. And it's my responsibility to be aware of the policy."

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***13.031 - Vehicle Eluding/Pursuits 13.031-POL 4. Officers Will Not Engage in a Vehicle Pursuit Without Probable Cause to Believe a Person in the Vehicle Has Committed [...]***

It was alleged NE#1 engaged in a vehicle pursuit without probable cause for all the factors required under policy.

SPD Policy 13.031-POL-4 states that officers may only engage in a vehicle pursuit if they have probable cause to believe an occupant of the vehicle committed either a violent offense or a sex offense. See SPD Policy 13.031 POL 4. Additionally, both of the following factors must exist: (1) the officer must have probable cause to believe the suspect poses a significant imminent threat of death or serious physical injury to others such that the risk of allowing the



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suspect to escape outweighs the risk of the pursuit; and (2) the officer received authorization to continue the pursuit from a supervisor. *See id.*

OPA agrees with NE#1 and finds that he did not have probable cause to engage in this pursuit. OPA appreciates NE#1's candor during this investigation and respects his extensive career investigating bank robberies. However, even with NE#1's training and experience, the objective factors he observed did not amount to probable cause that the Corolla he observed was involved in a bank robbery. Even taken in aggregate and viewed through the lens of NE#1's training and experience, NE#1 had reasonable suspicion that the Corolla could have been involved in the bank robbery he was investigating.

Moreover, even if NE#1 had probable cause to believe that the occupant of the Corolla was had committed the bank robbery—which he did not—he still would not have had sufficient information to enter a vehicle pursuit. NE#1 was unaware at the time he began the pursuit that there were no reports of the robbery suspects having any weapons. NE#1's assumption that the bank robber was armed because most of the bank robberies he has investigated involved armed suspects did not rise to probable cause to believe that the robbery suspect in this case “posed a significant imminent threat of death or serious physical injury to others.” Also, NE#1 did not receive affirmative authorization to continue his pursuit.

As noted, OPA appreciates NE#1's candid acknowledgement that initiating a pursuit was out of policy in this instance. However, this pursuit was out of policy and created a significant, inherent risk to the public, the suspect, as well as NE#1 and his partner.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #2**

***13.031 - Vehicle Eluding/Pursuits 13.031-POL 5. Officers Will Cease Pursuit When the Risk of Pursuit Driving Outweighs the Need to Stop the Eluding Driver***

It was alleged NE#1 failed to terminate the pursuit once the risk of the pursuit outweighed the need to stop the suspect.

SPD Policy 13.031-POL-5 states that officers will cease a pursuit when the risk of pursuit driving outweighs the need to stop the eluding driver. *See* SPD Policy 13.031-POL-5. The policy also outlines a non-exhaustive list of factors to guide officers in making that determination. *See id.*

As discussed above, NE#1's initiation of this vehicle pursuit did not comply with SPD's pursuit policy and OPA recommends that allegation be Sustained. The risk of pursuit driving was not outweighed by the need to apprehend the suspect at the inception of the pursuit. *See* SPD Policy 13.031-POL-4. By logical extension, NE#1's continued pursuit constituted a separate violation of policy under SPD Policy 13.031-POL-5 for failing to cease the unjustified pursuit. However, this allegation is entirely subsumed under Named Employee #1, Allegation #1.

Accordingly, OPA removes this allegation as duplicative.

Recommended Finding: **Allegation Removed**